

D.T.E. 02-14

February 14, 2002

Investigation by the Department of Telecommunications and Energy on its own Motion, pursuant to G.L. c. 159, ' ' 12 and 16, into the regulations, practices, equipment, appliances, and service of Broadview Networks, Inc.

VOTE AND ORDER TO OPEN INVESTIGATION

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Net2000 Communications Services, Inc. (ANet2000"), a telecommunications carrier serving business customers in Massachusetts, filed for Chapter 11 bankruptcy protection on November 16, 2001. Broadview Networks, Inc. (ABroadview Networks@) began serving the former customers of Net2000 on or about January 21, 2002. Broadview Networks is serving the Net2000 customers through Net2000 switches, which, the Department of Telecommunications and Energy (ADepartment@) has reason to believe, Broadview may intend to shut down on February 25, 2002. Broadview Networks has informed the Net2000 customers that they must sign up with Broadview Networks or find an alternate carrier before that date.

Numerous business customers have contacted the Department to complain that they are unable to effect a transfer of service to a new telecommunications provider of their choice by February 25, 2002, and are at risk of losing service for days, weeks, or possibly longer, and may incur substantial economic hardship as a result. Because the business customers served by Net2000 include medical centers and nursing homes, shutting down the Net2000 switches on February 25, 2002, may jeopardize the health and welfare of the citizens of the Commonwealth; therefore, the Department finds that a short notice period for the hearing to be scheduled in this Vote and Order is reasonable and consistent with the public interest pursuant to 220 C.M.R. ' 1.06(5)(c).

II. VOTE TO OPEN INVESTIGATION

Consistent with the above, the Department determines to begin review of Broadview Networks' activities regarding the bankruptcy of Net2000. Accordingly, on its own motion, the Department hereby votes to open its investigation. The investigation is docketed as D.T.E. 02-14. In this investigation, the Department will determine whether the regulations, practices, equipment, appliances, and service of Broadview Networks are unjust, unreasonable, unsafe, improper, or inadequate. See G.L. c. 159, ' 16. The Department will determine the just, reasonable, safe, adequate, and proper regulations and practices to be observed, and will fix and prescribe the same by Order. Before making such an Order, the Department will consider, but not limit itself to, the following factors: the relative importance and necessity of the changes ordered; the financial ability of Broadview Networks to comply with the requirements of the Order; and the effect of the carrier's compliance with the Order on its financial ability to make such other changes, if any, as may be deemed by the Department of equal or greater importance and necessity in the performance of the service which the carrier has professed to render to the public. See id.

We begin our investigation by scheduling an emergency investigatory hearing to take place at the Department offices on Tuesday, February 19, 2002, at which time representatives of Broadview Networks are directed to appear to assist the Department in its investigation. At 10:00 a.m. on Tuesday, February 19, 2002, immediately preceding the investigatory hearing, the Department will convene a public hearing and procedural conference to discuss orderly conduct of the investigation. Because customers face an imminent loss of service, the Department intends

to conduct this investigation in as expeditious a manner as possible while still adhering to the requirements of due process. The Department invites all interested persons who are substantially and specifically affected by the issues under investigation to petition to intervene in this proceeding. Petitions to intervene in this docket must be filed with the Secretary of the Department by 10:00 a.m. on Tuesday, February 19, 2002. The Department intends for this proceeding to be conducted as an adjudicatory proceeding, as defined in G.L. c. 30A, ' 1(1).

III. ORDER

Accordingly, the Department

VOTES: To open an investigation into Broadview Network's regulations, practices, equipment, appliances, and services, as they relate to the bankruptcy of Net2000, and it is

ORDERED: That a public hearing and procedural conference will be held at the offices of the Department on Tuesday, February 19, 2002, at 10:00 a.m.; and it is

FURTHER ORDERED: That an investigatory hearing shall immediately follow the public hearing and procedural conference; and it is

FURTHER ORDERED: That petitions to intervene in this investigation shall be filed with the Secretary of the Department by 10:00 a.m. on Tuesday, February 19, 2002; and it is

FURTHER ORDERED: That within forty-eight hours of the date of this Order, the Secretary of the Department shall publish the accompanying legal notice.

By Order of the Department,

_____/s/_____
James Connelly, Chairman

_____/s/_____
W. Robert Keating, Commissioner

_____/s/_____
Paul B. Vasington, Commissioner

_____/s/_____
Eugene J. Sullivan, Jr., Commissioner

_____/s/_____
Deirdre K. Manning, Commissioner